

RESTORATION: A New Agenda for Criminal Justice

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He is presently Vice-President of the Western Australian Branch of the Australian Crime Prevention Council and he presented this paper to the conference "Responses to Victims of Violence" organised by the Sexual Assault Referral Centre as part of a week of action against violence towards women.

We thank him for his permission to reproduce this paper. He points out that the views expressed are his and not necessarily those of the WA College of Advanced Education or the Australian Crime Prevention Council.

Compensation will answer the purpose of punishment but punishment will not answer the purpose of compensation. By compensation therefore the two great ends of justice are both answered at one time, by punishment only once.

Jeremy Bentham ¹

1. INTRODUCTION

For some time there has been a new mood in criminological circles that the fundamental focus of the criminal justice system on the punishment and/or treatment of the offender is too limited and limiting. The focus on the offender is increasingly being seen as an inadequate response to the problem of crime in the community. It is often argued that what we do with offenders is ineffective on a general level and on an individual level. The focus on the offender ignores the plight of the victim and often tends to leave all parties; the offender, the victim and the general public dissatisfied and resentful.

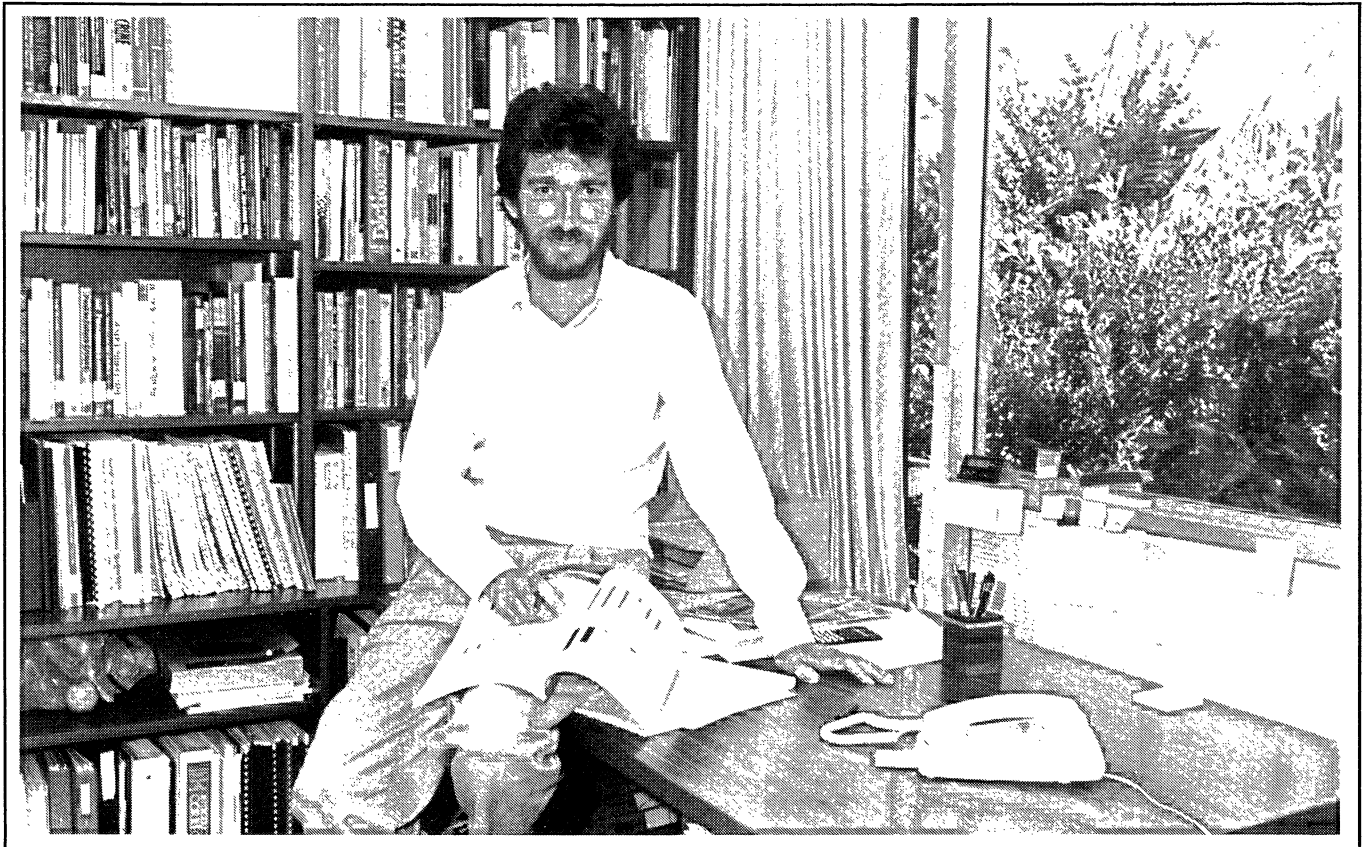
This paper outlines a case for reform of the criminal justice system which is aimed at replacing "retribution" with "restoration" as the fundamental objective. The paper will move from the general to the specific. Firstly, the rationale for the position that the treatment of the crime victim is

essential to the reform of the criminal justice system will be presented. This will be followed by a discussion of the kinds of provisions and services which could be made available to victims of crime individually and as a group. I will point out the kind of progress being made elsewhere and finally talk about the obstacles to progress in Western Australia. This will then lead to a discussion in which we can share ideas about how to stimulate action in Western Australia.

2. THE RATIONALE FOR A SHIFT IN THE FOCUS OF JUSTICE FROM RETRIBUTION TO RESTORATION

As a clinical psychologist who has spent most of his professional life either treating or studying criminal offenders you may be interested in how I have come to be an advocate for victims rights. Partly this is because I am acutely aware of the disparity in the level of services

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provided to victims and partly because I feel the situation of the offender on an individual level and on a collective level cannot proceed without due recognition and acknowledgement of the victim's position. On a more general level the situation of both the offender and the victim are inextricably linked in the achievement of an overall sense of justice to which we are all witness.

From a psychological position it is important that the offender is able to accept full responsibility for his or her actions. Our current system seems to have the effect of distancing offenders from victims and therefore the possibility of exposure to the consequences of their actions. Too often offenders seem to remain in an adolescent phase in which they view themselves as being "unlucky" and the criminal justice system as "persecuting" and "unfair".

I have come to the view from my study of public attitudes to sentencing that the basic purpose of the criminal justice system needs to be reviewed to acknowledge the central importance of victims. Action and policy in the area of crime would be clarified if we accepted that the state has a clear and fundamental responsibility to provide a safe community for its citizens to live in. There seems to be no good reason why the Government should not accept responsibility for crime in the same way that an employer accepts responsibility for accidents that occur in the work place. Until the state does accept responsibility for crime in the community the costs will continue to be borne unfairly and unevenly by vulnerable and/or disadvantaged groups and individuals.

In many ways the general inaction of the government towards victims of crime is somewhat surprising given the belief which seems to be widespread in the community that victims should get a better deal. I have completed three studies into public attitudes to sentencing which have

indicated what I'm sure all of you are fairly well aware of and some things which are less well known. The results I point to below have been discussed in detail in these studies (Broadhurst and Indermaur, 1982; Indermaur, 1987; Indermaur, 1990).

The public does seem to want the penalty of imprisonment used more than it is at present and there is a perception, on a superficial level at least, that the courts are not severe enough and that they are inconsistent and unfair. What is less well understood is that most of these attitudes are based on public concern with violent crime. Violent crime dominates public thinking about crime and punishment, yet makes up only about 5% of all crime. Furthermore, the public seem quite willing to endorse positive plans or alternatives to prison for non violent offenders.

In my recent study in Perth I examined the general public perception of "unfairness". I asked the respondents who thought the courts were not fair (87% of all respondents) which type of offenders "get off too easily" 62% responded with a form of violent crime ("violent crimes", "murder", "rape", "sex crimes" etc). When asked "which types of offenders are treated too severely?" the responses were more variable but 92% of responses cited non violent crime and/or petty crime. Clearly then, much of the dissatisfaction the public has with the courts has to do with a perception that the courts do not consider violence seriously enough. This tends to confirm the picture gained earlier in relation to the question: "What makes one crime more serious than another?" The notion of violence and direct harm to an individual victim seemed to predominate. These results should inform both policy makers and sentencers in reaffirming the importance of violence to considerations

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regarding sentencing.

I have concluded my recent study with a consideration of the problem of the conflict between public attitude and court practice. There has been an enormous amount of work devoted to the problem of sentencing reform both in Australia and other Western nations. However, despite considerable enquiries and commissions there appears to be an inability of the system to respond in any substantial way to most of the recommendations. It is argued that this inability stems from a structure that is incomplete and inadequate because it continues to take a limited focus on the offender and fails to incorporate the legitimate needs of the victim.

We perhaps need a Copernican revolution for the criminal justice system so that it no longer revolves around the offender but rather it focuses on the victim of crime. This would have the advantage of giving the system a positive focus rather than a negative one and would provide clarity in terms of the business of criminal justice. For example, victimless crimes may be seen as less important than victim crimes and property crimes as less important than crimes of violence. This new focus towards "restoration" and away from "retribution" would also address the problem of public attitudes toward sentencing in that social equity would be achieved through the elevation of the status of the victim rather than the denigration of the status of the offender. In other words I would expect public dissatisfaction with the courts to be lessened as this anger is likely fuelled by a basic perception of injustice.

The issue of the appropriate purpose of sentencing is the subject of heated debate both within legal circles and the general community. The matter is obviously largely a matter of belief and reflects the currency given to certain belief systems. In many jurisdictions there has been a shift toward proportionality in sentencing. In the criminological literature the demise of rehabilitation has been widely discussed, not only because of the general paucity of evidence regarding the efficacy of treatment programmes but also on philosophical grounds and in terms of offenders rights.

Although there may be universal agreement that a convicted offender should be visited with some form of consequence for his or her offence, there is considerable dispute about what form such consequences should take and the reason they are being applied. Some would like to think that these consequences are being applied for the offenders own good (the "benign" or "treatment" approach) others see them as a necessary evil that will do nothing at all for the offender but must be applied to uphold public respect for the law.

A number of studies have identified a widespread endorsement of the notion of rehabilitation by sentencers (e.g. Hogarth 1970). It may be that sentencers continue to justify sentences in terms of rehabilitation because of the less odious attributes of this rationale. Further, to the extent that a sentencer may believe in rehabilitation any misgivings regarding the punitive nature of the action may be assuaged. In the final analysis, however, there is little in the way of evaluated, sustained or systematic therapeutic treatment of prisoners in Western Australia nor much attempt to evaluate the effectiveness of programmes. The work of Broadhurst, Maller, Maller and Duffecy (1988) and Broadhurst and Maller (1990) suggests that apart from some positive effect of conditional release programmes for non Aboriginals

recidivism (reincarceration) rates in Western Australia remain high and are mainly determined by the demographic variables of age, Aboriginality and gender.

The point is not so much to do with the efficacy of rehabilitative programmes (there is a vast literature on this topic) but that there may be a lack of honesty and frankness regarding what can be achieved through a sentencing and what can not be achieved. The point here is that we may be hoping to achieve more through sentencing than is realistic.

The fact that there always tends to be a combination of purposes associated with both individual sentences and sentencing in general (i.e. eclecticism) reflects the vagueness and the uncertainty regarding the role of sentencing. This uncertainty, it is argued, is not malicious but simply a result of the unrealistic expectations that derive from a general utilitarian or "crime control" rationale for sentencing.

Most informed analyses suggest that because of the microscopic proportion of offenders actually convicted, sentencing can really only direct an effect through its symbolic value. The audience for the symbolic display also needs to be considered. Possible effects on actual law breakers or potential law breakers are rather dubious (Canadian Sentencing Commission, 1987) and virtually impossible to assess. The secondary general deterrent effect (Salem and Bowers, 1970) aimed at reinforcing the position of the law abiding (by demonstrating the consequences of non-compliance) may not be fulfilled either judging on the public dissatisfaction with sentencing.

The eclectic approach may provide a convenient cover for the necessity to actually choose one purpose and examine the objective and its achievement in any detail. However, the confusion or uncertainty regarding the reasons why we sentence offenders may also lie at the base of much of the antagonism the public feels in relation to sentencing and its frustration with the current sentencing system.

Many reports and studies in Australia and across the world have observed there is little that can be achieved in terms of guiding or evaluating criminal justice practice without a clearly determined, legislatively based sentencing policy (U.K. White Paper, 1990; Ashworth, 1983; Broadhurst, 1990; Doob, 1990). To be complete, such a policy needs to clarify the purposes and limitations of sentencing, given the continuing tendency of the legislature, judiciary and public to look to sentencing as a means to "control crime".

Establishing a proper role for sentencing in the context of a total criminal justice policy may allow public attitudes to be addressed in a meaningful way. Much of what has been interpreted as public dissatisfaction with the courts and sentencing is often expressed by comparing the sentence the offender receives with the predicament of the victim. It would seem, therefore, that at least part of the public sentiment concerns the overall perceived injustice inherent in the victims position. Calls for harsher penalties may be an expression of a desire to see the social balance restored to some extent. However, this method of attempting to address the disruption in the social balance is in direct conflict with the need to treat the offender humanely, attempt rehabilitation and government policies aimed at reducing the rate of imprisonment.

A more rational and effective strategy that allows current sentencing practice and government strategies to be pursued while at the same time integrating public attitude would be to

focus on providing adequate services and compensation to victims of crime. Separating the sentencing task from that of addressing public grievances will allow both sets of needs to be dealt with more effectively. To the extent the focus is taken off the offender by satisfactorily "restoring" the victim (in concrete and psychological terms) there will be less pressure on sentencing policy. Given that such a small proportion of all recorded crime involves violence providing comprehensive and high profile services and compensation to victims of violent crime would be relatively inexpensive whilst eliminating the most visible and symbolic instances of injustice.

3. THE NEEDS AND RIGHTS OF CRIME VICTIMS

3.1 *Who are Victims of Crime*

As with criminal offenders, victims are drawn disproportionately from the lower socio economic classes and tend to be male, black and young (based on the findings of victimisation surveys principally in Australia the 1983 ABS survey).

First of all youth is a factor. Although only 22.7% of the Australian population is aged between 15 and 24 years, this group makes up about 40% of all crime victims according to the ABS survey. A recent report from White, Underwood and Omelczuk, (1990) has highlighted the prevalence of victimisation amongst young people attending youth services in Western Australia.

Secondly, the 1983 ABS survey found that the unemployed are victimized twice as often as their numbers in the population would lead us to expect. Single or separated persons are victims of crime three times as often as married persons are.

The recently released report of the National Committee on Violence (Australia, 1990) discussed a number of indications that Aboriginals suffer a far higher rate of victimization, especially violent victimization, than whites. The report also indicated that violent crime is mainly committed by a person familiar with the victim. The report concluded (p 23) that victims of violence tend to fall into two broad categories: men who become engaged in altercations with other men and women and children who are victimised by men they are related to. Males comprise 75% of victims of serious assault recorded by the police, 80% of assault victims treated in public hospitals and two thirds of homicide victims. In terms of perpetration males comprise 80% of known homicide offenders and 90% of those charged with serious assault robbery and sexual assault. (Australia, 1990, p33).

One of the reasons that this feature of victimization may seem surprising is that the sector of the population which is recognized as most concerned and afraid of crime, (i.e. women, the elderly, the married) actually have a lower rate of overall victimization. However, fear of crime can be seen to lead to preventative action on the part of those most concerned, it can also make crime a distant experience which is consequently feared more. At a more fundamental level the subjective reality and personal costs of crime need to be considered. In other words statistical indications of actual victimisation apart from their well known epidemiological limitations do not provide a meaningful appraisal of the personal impact of crime and its implications for different groups. Although women appear to suffer a lower level of

victimisation overall the cost at which this is achieved is not readily apparent. Measures of "fear of crime", which may be conceptualized as secondary crime victimization, provide an indication of the subjective victimisation.

In the recent Perth survey (Indermaur, 1990) 70% of respondents chose responses "unsafe" or "very unsafe" to describe how they felt walking alone at night in Perth city, whereas only 38% said they felt "unsafe" or "very unsafe" walking alone at night in their own neighbourhood. Perth city is, therefore, seen by most respondents to be more unsafe than their own neighbourhoods. This is not a surprising finding and confers with other studies on fear of crime which suggests that familiarity tends to reduce fear. Brantingham, Brantingham and Butcher (1982) found that even residents of high crime areas were less afraid of their own areas than some unfamiliar area of the city.

Fear of crime as measured in the present survey was found to be related to the age and gender of respondents. Almost 60% of women said they felt "unsafe" or "very unsafe" in their own neighbourhood. Only 14% of men felt similarly unsafe. In terms of age, the oldest group (60+) were more likely to say they felt "very unsafe" in their own neighbourhood. The strong effect by age and sex also held up if we consider how safe respondents feel walking alone in Perth city at night.

Feelings of safety also varied between areas when areas are broken down into lower socio economic, middle class and upper class (based on an index used by the ABS).

Whereas almost half of respondents living in lower socio economic areas said they felt "unsafe" or "very unsafe" in their own neighbourhoods, only about a third of middle or higher class residents said they felt unsafe.

The questions regarding fear of crime were asked in the earlier Perth survey, with very similar results. In that study it was found that respondents who expressed fear were more likely to view the courts as too lenient in their sentencing.

The demography of crime victimization indicates that like many other social ills it is very much an attribute or affliction of the poor and powerless. Those areas which generate crime – areas of lower socio economic status, where the social "glue" is least effective, are also the areas of crime victimization. Furthermore, affluent citizens can protect themselves against crime through increased security measures, taking out insurance, and in general by having enough money to cope with untoward events such as crime. Victimization then tends to be a lower class phenomenon, being yet another social cost of being poor and powerless. Services to victims of crime are needed to address the needs of people who are disadvantaged and/or vulnerable.

The lack of services to victims of crime partly explains the low rate of reporting of crime to the police. Apart from those crimes for which reporting is associated with financial recompense (e.g. insurance claim) most victims don't report the crime to the police. The 1983 ABS survey found that although motor vehicle theft was reported by 94% of victims, sexual assault was reported by only 28% of victims². The most common reason given by victims of sexual assault for not reporting the crime was that the police "couldn't or wouldn't do anything about it". In other words victims reasoned (perhaps correctly) that there would be no advantage to them in reporting the crime.

These results have implications for the criminal justice system. Firstly, if many people don't report crime because of

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the expected inability of the system to "do something about it" then we have the paradox that ineffective systems will be rewarded with lower reported crime rates and effective systems may well lead to an increase in reporting and an apparent increase in crime rates. This effect also applies to any improvement in victim services or any positive responses to awareness campaigns on domestic violence, child abuse etc. These are matters that need to be clearly understood and monitored closely in order to properly evaluate the effectiveness of the police and other services in the criminal justice system.

3.2 *The Needs and/or Rights of Crime Victims*

As Mawby (1988) points out there are two ways of approaching the problem of victims in the criminal justice system. One is to consider that they have a number of "rights" which need to be acknowledged and catered for. The other is to recognise that they have a number of "needs" which should be addressed. The former approach puts the provision of victims' services on a much more secure and legal basis. The second may suggest that victims may be grateful to a benevolent state for looking after their needs. On the other hand not all victims are affected to the same degree and the "needs" based service may be more open and receptive to the individual rather than the group. The debate regarding "needs" versus "rights" as a basis for victims' services is described in detail in Mawby (1988).

One of the best known studies of crime victims and their needs was carried out in the United Kingdom by Joanna Shapland (1984). She determined that victims' needs tended to be mainly for recognition that they had indeed been the victim of a crime and for support. In terms of strategies and services to address the needs or rights of crime victims these can be conceptualized on four levels:

1. Immediate attention. An individual suffering victimization needs immediate "psychological first aid". This may include formal medical counselling services (e.g. provided by SARC) specialized psychological services (trauma debriefing) and support and assistance on a more general level from police and other authorities which are dealing with them.
2. Ongoing support including the provision of information. As the crime gets processed by the criminal justice system, even if there is no offender, crime victims may need various levels of support and information.
3. Formal representation at court. The needs, desires and effects of the crime on the victim needs to be put formally, properly and effectively before the court at the time of sentence so that the victim is not forgotten in this process.
4. Crime victims have a need and/or right for restitution or compensation from the offender or the state.

To this list we could add the needs of crime victims as a group, such as the needs of victims to be protected from preventable acts by the state or individuals (e.g. by prisoners released on parole).

Naturally, "prevention is better than cure". The focus on victimization reduction rather than crime prevention is subtle yet important. The focus on victims takes as its point of departure the actual effect on the human being. This can sometimes be unrelated to the legal gravity of the offence. For example, the victims of a car accident involving a drunk driver could be highly traumatized, as could an elderly victim of a burglary. However, neither of these events come

close in legal gravity to some other offences which have no direct victim that would be emotionally affected by the event.

Victimization prevention therefore is concerned with the human side of crime and attempting specifically to reduce those events that result in victimization. Such attempts may involve teaching women self defence skills or householders methods of making their houses less attractive targets for thieves. Prevention strategies may also involve teaching persons likely to be victims of crime (e.g. police officers or staff working with juvenile offenders) methods for reducing their risk or coping with victimization should it occur.

Victimization can be conceptualized as a subjective experience determined more by the individuals own beliefs and thinking than by the objective facts of the situation. Certainly some events tend to be highly traumatic for most people, and this has led to the discussion of such reactions as the post-trauma stress syndrome. However, the methods of coping with stress are highly individualistic and some victims will need more help than others. It is therefore important that all victims be given access to trained counsellors who can assist them and ascertain the level of support and assistance needed to cope with the situation. Prevention of victimization is as much about prevention of psychological distress building after the crime as it is about preventing the crime happening in the first place.

Some individuals may be more likely to be victims than others. Some may know in advance that they would not cope well with being the victim of a certain type of crime and may take action to prevent the likelihood of its occurrence. This happens naturally. Many women are concerned about being raped and tend to adopt patterns of activity that minimize the risks.

4. NATIONAL AND INTERNATIONAL DEVELOPMENTS IN VICTIMS SERVICES

Various groups and services associated with victims of crime have developed in Western countries over the last 20 years. Naturally the form and nature of these services and groups reflect the nature of the community and government in different countries.

Internationally, in 1986 as a result of the initiatives of Canada, France and Australia and in particular the work of the South Australian Attorney General, Chris Sumner, 157 governments who are members of the United Nations adopted a declaration of principles of justice for victims of crime (adopted by the UN General Assembly in 1986). In October, 1985 the South Australian cabinet approved the declaration. This declaration is listed below. The four essential principles involved are that the government should ensure that there are adequate services, reparation, compensation and access to justice for victims of crime.

The 17 Principles adopted by The United Nations in 1987

Principle 1: *The victim of crime shall have the right to be dealt with at all times in a sympathetic, constructive and reassuring manner and with due regard to the victim's personal situation, rights and dignity.*

Principle 2: *The victim of crime shall have the right to be informed about the progress of investigations being conducted by police (except where such disclosure might*

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jeopardize the investigation).

Principle 3: *The victim of crime shall have the right to be advised of the charges laid against the accused and of any modifications to the charges in question.*

Principle 4: *The victim of crime shall have the right to have a comprehensive statement taken at the time of the initial investigation, which shall include information regarding the harm done and losses incurred in consequence of the commission of the offence; the information in this statement shall be updated before the accused is sentenced.*

Principle 5: *The victim of crime shall have the right to be advised of justifications for accepting a plea of guilty to a lesser charge or for accepting a guilty plea in return for recommended leniency in sentencing.*

Principle 6: *The victim of crime shall have the right to be advised of justification for entering a nolle prosequi (i.e. to withdraw charges) when the decision is taken not to proceed with charges (decisions which might prove disconcerting to victims should be explained with sensitivity and tact).*

Principle 7: *The victim of crime shall have the right to have a property held by the Crown for purposes of investigation or evidence returned as promptly as possible; inconvenience to victims should be minimised wherever possible.*

Principle 8: *The victim of crime shall have the right to be informed about the trial process and of the rights and responsibilities of witnesses.*

Principle 9: *The victim of crime shall have the right to be protected from unnecessary contact with the accused and defence witnesses during the course of the trial.*

Principle 10: *The victim of crime shall have the right to not have his/her residential address disclosed unless deemed material to the defence or prosecution.*

Principle 11: *The victim of crime shall have the right to not be required to appear at preliminary hearings or committal proceedings unless deemed material to the defence or prosecution.*

Principle 12: *The victim of crime shall have the right to have his/her need or perceived need for physical protection put by the prosecutor before a bail authority which is determining an application for bail by the accused person.*

Principle 13: *The victim of crime shall have the right to be advised of the outcome of all bail applications and be informed of any conditions of bail which are designed to protect the victim from the accused.*

Principle 14: *The victim of crime shall have the right to have the full effects of the crime upon him/her made known to the sentencing court either by the prosecutor or by information contained in a pre-sentence report, including any financial, social, psychological and physical harm done to or suffered by the victim. Any other information that may aid the court in sentencing including the restitution and compensation needs of the victim should also be put before the court by the prosecutor.*

Principle 15: *The victim of crime shall have the right to be advised of the outcome of criminal proceedings and be fully apprised of the sentence, when imposed, and its implications.*

Principle 16: *The victim of crime shall have the right to be advised of the outcome of parole proceedings.*

Principle 17: *The victim of crime shall have the right to be notified of an offender's impending release from custody.*

In Europe, the Council of Europe has adopted three methods to address the rights of victims of crime (Waller,

1988). First there is a draft of a convention on compensation which would be recognized reciprocally across states. Secondly, there is a statement regarding the primacy of the position of the victim in criminal proceedings (e.g. reparation payments take precedence over fines). Thirdly, there has been recommendations regarding the provision of services and research into victims of crime. In France the victim has traditionally been directly involved in the criminal justice process and the needs, concerns and wishes of victims can be taken into account whilst dealing with the criminal charges. France also provides legal aid to victims. The French police are obliged to provide victims reporting a crime with a form that lists the case number, a copy of essential details provided to the police and on the back an outline of victims rights (Waller, 1988).

In the United States, Federal legislation ensures that individual states provide compensation to victims and that the compensation schemes are adequately funded. There is naturally a wide variation in the kinds of services provided by different states within the USA. Some states have government paid victim assistance worker's (e.g. Massachusetts). As a result of the recommendations of the President's Task Force which was established in 1982, a Federal Victims Unit has been established within the Department of Justice. This unit operates as a national resource centre providing information and referral services to victims and those individuals and groups serving them. It also provides training to judges and other justice workers. The unit also assists in translating task force recommendations into draft legislation for implementation by states (Herrington, 1985).

In Canada there are about 14 police based programmes which have been developed in the last 15 years. The indications are that government funding for victims services is increasing in Canada; in 1986 the Ontario Provincial Government allocated \$5.4 million for victim services (David, 1988). Manitoba has passed the UN principles into legislation.

In the United Kingdom victims of crime services are largely co-ordinated by the non-government National Association of Victim Support Schemes (NAVSS). At a recent seminar in Perth on victims of crime Stewart Flynn³ provided an analysis of the United Kingdom scheme which he studied whilst on a Menzies scholarship to that country in 1988. The following information is from that report (Flynn, 1990).

NAVSS emerged in 1979 to co-ordinate local victim support schemes (about 30) that had been forming in the United Kingdom since 1974. There are now about 350 schemes affiliated with NAVSS servicing most of the country and employing 18 full time staff at its headquarters in London. NAVSS receives a substantial part of its funding from the government (about \$5.6 million in 1988/89). Government funding is used to maintain most running costs and the costs of national and local co-ordination. In the year 1985/86 NAVSS provided services to 184,994 victims (NAVSS Annual Report, 1986: 19), by 1987/88 this figure had grown to 328,174 total referrals to members schemes in the year.

Victim support in the United Kingdom is a mass movement and the fastest growing non government movement in that country. Although there were naturally difficulties to begin with most areas now have a system of

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automatic referral of crime victims (in appropriate categories) by the police to the local victim support scheme. The local scheme then follows up the victim to provide support, information etc. The national body also acts to improve the provision of compensation orders and facilitates local groups in helping victims apply for compensation.

Here in Australia there have been various developments in different states. As in other countries there are many services which regularly service the needs of victims of crime such as women's shelters and general welfare services. The services which have specifically been developed to deal with victims of crime have typically been in three categories:

1. Services established specifically to deal with the victims of certain crimes (e.g. sexual assault and domestic violence).
2. Non government organisations established to support and advocate for victims' rights: In Victoria, New South Wales and the ACT the Victims of Crime Assistance League (VOCAL); in Queensland and the Victims of Crime Association of Queensland in South Australia; in South Australia the Victims of Crime Service (VOCS).
3. Government initiatives to meet the needs of victims of crime. These are usually some form of enhancement or addition to existing functions of the police department.

A directory of services for victims of crime in Australia has recently been compiled by David, Stubbs and Pegrum (1988). It is expected that this directory will soon be made available to all interested parties⁴. 321 services to victims of crime are identified in the directory according to their response to the survey conducted (175 in NSW, 32 in Victoria, 26 in Queensland, 25 in Tasmania, 23 in South Australia, 13 in Western Australia, 11 in the ACT and 16 in Northern Territory). It appears from a classification of services provided in NSW that about half of the services have to do with sexual assault and domestic violence. One problem described in the research was that most victimisations occur on a Friday or Saturday night yet only about 30% of services are available 7 days a week. The information described below highlights some of the services outlined in the directory.

The New South Wales police department has appointed 12 officers as "Victims of Crime Co-ordinators". Their role is to notify victims of the progress of investigations, defendant's arrest, bail determinations and the status of cases as they progress through the criminal justice system. These officers also provide referral, initial support and community education. In New South Wales there are also domestic violence liaison officers, a statewide network of child mistreatment units staffed by specially trained officers. Compensation for victims of crime is arranged through the Victims Compensation tribunal up to a maximum award of \$50,000. Brochures explaining the process of compensation are made available. In New South Wales there are also court support schemes, private "trauma debriefing" companies, about 27 sexual assault services co-ordinated by the Department of Health.

In South Australia the government has funded a criminologist and two social workers to work in the Victims of Crime Service. The police department has a Victims of Crime branch and is developing a pilot programme of victims liaison officers.

In Victoria police assistance is organised through the community policing squads, there is also a national trauma clinic and a range of sexual assault centres.

In Western Australia we have a Criminal Injuries Compensation Scheme, a Sexual Assault Referral Service and a range of agencies that indirectly cater for victims of crime. In terms of compensation the maximum compensation which can be awarded is considerably greater in Queensland, New South Wales and Victoria. Furthermore as pointed out by Cant (1988), the main problem seems to be that most victims are not aware of the scheme and are given little support or encouragement to seek compensation (only about 5% of victims of serious offences applied for compensation in 1987 in Western Australia).

Although the Western Australian State Government promised the endorsement of a "Charter of Victims Rights" prior to the last election this has not materialised. Nor has the report of the Victims of Crime Working Party been released and only recently have we seen the emergence of a plan for the police department to establish a co-ordinating unit as recommended by the Working Party. Also very recently a victims of crime support unit modelled on the British service has been established in the eastern suburbs of Perth.⁵

In Western Australia, the history of victims of crime reform can be linked principally to the establishment and support of the Sexual Assault Referral Service. On a more general level the Western Australian State Labor Government established the Victims of Crime Working Party in September, 1986. Its terms of reference were:

to investigate and report on services to victims of crime with particular reference to:

- the range and adequacy of existing Government and non Government services to victims of crime;
- possible additional Government or non Government services to victims of crime;
- the co-ordination of existing and possible additional services to victims of crime; and
- the organisational structure required for such co-ordination.

The Working Party was made up of representatives of the four main public service departments involved (Crown Law, Health, Police and Community Services). The final report titled "What About Me?" was presented to the Attorney General (Mr J Berinson) in July, 1988, and contained 43 recommendations and received submissions from 36 individuals and agencies in the field.

One of the members of the Working Party, Ms. Rosemary Cant delivered a speech which outlined some of the findings of the Working Party to the Annual General Meeting of the Crime Prevention Council in 1989.

The Working Party recommendations essentially were that the government should adopt as policy the United Nations charter of victims rights and that a co-ordinating unit be established to facilitate the provision of services to victims of crime.

5. OBSTACLES TO REFORM

The needs and rights of crime victims are well known and have been discussed at length in various forums concerned with these topics. The danger is that much of this is preaching to the converted. The real challenge is to facilitate a process which will enable victims rights to be recognised and endorsed formally by government.

Reform of the criminal justice system and official recognition of victims rights is dependent upon government action. However, the political reality is that most people are

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not victims of crime (at least not usually), don't necessarily identify with victims of crime and as pointed out earlier the best general insurance against crime is wealth. This means that the section of the population that is most affected by crime – the young and the poor are least able to articulate their needs or become a political force to be reckoned with. As Corns (1987) has pointed out there is little evidence that the general community is particularly concerned, or indeed interested, in the position of crime victims. Most of the initiatives have come from specific interest groups such as the police and victim support groups.

In regard to the glaring inadequacy of criminal injuries compensation when compared to workers compensation Grabosky (1987, 149) has summarised the position well:

The reluctance of Australian governments to increase the maximum award payable to crime victims is based on considerations of cost. Governments have argued that an increase in the statutory maximum, or the elimination of an upper limit entirely, would be followed by an uncontrollable drain on revenue. The fact that a compensation "blow out" has not occurred in the United Kingdom, where there is no statutory upper limit, would appear to refute this argument.

The initiative for reform in a country such as Australia rests to a large extent with the government. However, as we have seen the energy for reform can wane unless there is concerted pressure applied to articulate the political dividends involved.

The challenge for Western Australia is to form an independent group that has the capacity to remind the government and the electorate of instances of injustice and the shortcomings of the system in addressing human rights.

6. A REFORM AGENDA

The achievement of reform to the criminal justice system to give recognition to the position of crime victims is likely to be a fairly long process and progress is more likely if fundamental steps are made early upon which to build later reform efforts. The following steps are listed in sequential order to emphasise the importance of the more general points to the later changes.

1. Statement or declaration of victims rights (e.g. 17 principles adopted by the UN) enshrined in legislation providing a statutory basis to the rights of citizens victimized by crime.
2. Amendments of relevant legislation to incorporate rights.
3. Development of procedures within all agencies of the criminal justice system to provide information the victims at critical points in the criminal justice process and on request.
4. The provision of a national co-ordination service incorporating a 008 information line open 24 hours a day (see below).
5. The availability of on-call professional trauma debriefing for victims of violent crime.
6. Fair payment to crime victims for all time spent in court as a witness for the prosecution.
7. Fair payment for all medical expenses including counselling required as a result of the victimization.
8. Payment for legal counsel required to pursue matters arising from the victimization.
9. Fair and adequate compensation on par with

workers compensation. Compensation fund maintained from either general revenue and/or a small levy on general taxation and/or a levy on all fines paid to the courts and/or paid work by offenders.

10. Victim impact statements provided in all cases of serious crime.

David et al (1989) concluded their study of services in Australia by noting that "existing services are often under funded and over utilised. The overall provision of services within a given state is often unco-ordinated, poorly planned and ad hoc." (p21). The authors recommended the establishment of a National Victims of Crime Resource Centre to facilitate the sharing of information, the regional planning of future services and the referral of victims of crime to appropriate existing services. This referral function, it is envisaged would be achieved through the provision of a 24 hour "008" service for the whole of Australia. The National Resource Centre could fulfil the vital function of education and training in regards to victims needs and victims issues. The more remote and under serviced states such as Western Australia would particularly benefit from the establishment of a national centre.

7. A STRATEGY FOR ACTION

Having stated the agenda the final consideration needs to be strategy. The problems in establishing a reform movement were outlined in section five. Given the limitations of population and government support in Western Australia the following steps are seen as the most likely to provide an infrastructure upon which later reform efforts could be based.

1. The formation of a loose alliance of interested agencies and individuals which would be linked to the emerging national body "Combined Crime Victim's Organisations of Australia".
2. Servicing of this alliance could be shared by existing agencies such as the Sexual Assault Referral Centre or the Crime Prevention Council until it could operate on its own.
3. The loose alliance would organise publicity to provide a focus for those interested in participating in a victims movement.
4. The preliminary aim of the alliance could be understood broadly in terms of facilitating the recognition of victims rights and the provision of services to victims of crime.
5. Through the national body the loose alliance would make public material pertaining to the needs and rights of victims of crime and encourage government to act in appropriate areas.

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¹ Cited in Sumner, 1987, p 213.

² Because the 1983 ABS survey incorporated minor incidents of sexual assault and threats of sexual assault this figure should be interpreted cautiously. However Rod Broadhurst of the WA Crime Research Centre advises that even when more restricted definitions are derived to provide an indication of the reporting rates of rape the figure is still about 30%.

³ The representative of the Western Australian Health Department on the Western Australian State Government's Working Party into Victims of Crime established in 1987.

⁴ Copies should be attainable through the Australian Institute of Criminology. However, if there is some difficulty contact SARC or Crime Prevention Council for copies.

⁵ This service has been established by Ms. Faith Everson who has been exposed to the British Victim support service scheme. Ms. Everson is keen to network with service providers and potential volunteers; her phone number is 293 3782.

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